

1972 WL 25338 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 2, 1972

***1 Re: Sovereign Immunity of the University of South Carolina**

Dr. H. W. Davis
Vice President
Advanced Studies and Research
University of South Carolina
Columbia, South Carolina 29208

Dear Dr. Davis:

You have requested that this office advise you as to whether the University of South Carolina is cloaked with sufficient aspects of sovereign immunity as to render it immune from suit in tort.

The University of South Carolina was established pursuant to Sections 22-101, et seq., and was created as a State Agency, and as such, is immune from tort suit under the Doctrine of Sovereign Immunity. As is stated in Section 22-104, Code of Laws of South Carolina, 1962, the University of South Carolina is constituted a body corporate in politic having the power, among others, to sue and be sued by the corporate name. This statutory grant of power does not waive the Doctrine of Sovereign Immunity insofar as tort suits are concerned but relates solely to suits in contract, [Sherbert v. School District No. 85, Spartanburg County](#), 169 S.C. 191, 168 S.E. 391.

The rule of law in this State has been clearly established as neither the State nor its political subdivisions being liable in an action ex delicto, unless made liable by the express enactment of the General Assembly. [Randall v. State Highway Department](#), 150 S.C. 302, 148 S.E. 57. No such enactment being present in this instance, the University is immune from suit in tort and, consequently, has a justiciable defense, by way of demurrer, to any such suit brought in its corporate and sovereign capacity.

I trust that this has been sufficient to answer the questions which you posed. If we may be of any further assistance, please do not hesitate to call or write.

Very truly yours,

Timothy G. Quinn
Assistant Attorney General

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